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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Applicant:

Shklarsky

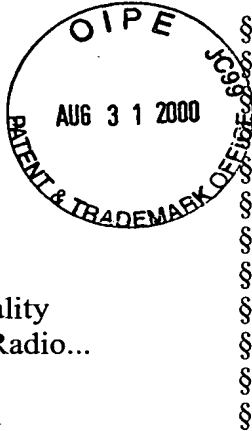
Serial No.: 09/202,617

Filed: 18 Dec 1998

For: Adaptive Capacity and Quality
Improvements in Cellular Radio...

Examiner:

Commissioner of Patents and Trademarks
Washington, D.C. 20231



Group Art Unit:

Attorney
Docket: 26/259

RECEIVED

03 OCT 2000

Legal Staff
Interpersonal Relations

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

Sir:

This is in response to the United States Patent and Trademark Office Action mailed December 9, 1999, in which it was indicated that a response to a Notice of Missing Requirements was not filed, and as a result thereof, the application was deemed abandoned.

Applicants never received such Notice of Missing Requirements. In fact, no communication was received from the USPTO in connection with the instant application until receipt of the above Notice of Abandonment.

Attached herewith is a Declaration from the Applicants' representative, Anthony J. Castorina, of 2001 Jefferson Davis Highway, Suite 207, Arlington, Virginia who received all the mail addressed to the undersigned from the U.S. Patent and Trademark Office. In it, Mr. Castorina declares that as the sole occupant of the above address, he personally opens all the mail received at the above address that is addressed to the attorney of record, Mark Friedman. Mr. Castorina declares that he routinely records all items that require action or responses of Mr. Friedman in a mail log. Mr. Castorina further declares that he then personally packages

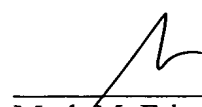
all the mail directed to Mr. Friedman and forwards in a Federal Express package to Mr. Friedman at his Tel Aviv address. Mr. Castorina declares that he has reviewed all of his entries from February 23, 1999 through April 23, 1999, and has included true copies thereof and has no Notice of Missing Requirements or any other action recorded therein for the above identified patent application. Mr. Castorina declares that as a result, no such Notice of Missing Requirements or any other action was received by him with respect to this application.

Also attached is a declaration from Mr. Friedman, the attorney of record in which he declares that he personally opens all the Federal Express packages received from Mr. Castorina and immediately records on his database all actions received from the U.S. Patent Office. He declares that based on the database records of his, no such Notice of Missing Requirements or any other action is recorded on the above identified application. Mr. Friedman declares that as a result, no such Notice of Missing Requirements or any other action was received by him with respect to this application.

Accordingly, pursuant to the holding of *Delgar, Inc. v. Schuyler*, 172 USPQ 513, Applicants have submitted sufficient facts to support the contention that the Notice of Missing Requirements was never received by Applicants representatives.

In view of the above, the Notice of Abandonment should be withdrawn and a New Notice of Missing Requirements be mailed on the subject patent application. It is believed that this Petition does not require a fee, but if one is required, authorization to charge Deposit Account 06-2140 is hereby granted.

Respectfully submitted,



Mark M. Friedman
Attorney for Applicant
Registration No. 33,883

Date: August 16, 2000

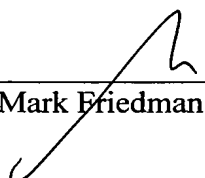
3. Based on receipt of all Federal Express Waybills I was advised of, all Federal Express shipments that Mr. Castorina has shipped to me have been received by me. None has ever not been delivered.

4. I personally open the shipments received from Mr. Castorina and immediately and routinely record the actions received in my database. Attached herewith is a true copy of all the entries on my computer database made on Serial No. 09/202,617, identified by my Docket 1009/2. No entry of docketing a Notice of Missing Requirements or any other action on or about February 23, 1999 appears thereon. This indicates that I never received a Notice of Missing Requirements on the above identified application.

5. After having received the Notice of Abandonment dated December 9, 1999 on the subject patent application, for failure to respond to the Notification of Missing Requirements, I asked Mr. Castorina to review his records from April 23, 1999, the date of the alleged mailing of the Missing Requirements, through March 31, 1999, a reasonable period after the date of the Office Action, to determine whether he had recorded receipt of such Notice of Missing Requirements or any other action on the above identified application. After reviewing his records, Mr. Castorina advised me that he had not recorded receipt of any action on this application, indicating that he had never received such Notice of Missing Requirements.

I hereby further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application of any patent issuing thereon.

Signed this 29th date of August, 2000



Mark Friedman

File	26/259	Application	09/202,617	Issue No	
Country	US	Filing Date	18-Dec-98	Issue Date	
Type	PATENT	Relation	Parent File	Family	
Matter	CELLULAR CONFIG 8053				
Client	RAFAEL				FAMILY
Assoc					
Asc Ref		DKT THIS FILE	DUP ACTION	PACKAGE ENTRY	
Clk Ref	8053		NO ACTION FILE	CONVERT	
Lawyer	Mark	Comment	DUE REPORT	Print New Pocket	
Status	Active	PRIOR PCT/IL97/00188 FILED 10 JUN 97 (26/207)	CLIENT REPORT	Update ODK	
Opened	16-Dec-98		RECALL	SYNC ODK	

DOCKET CURRENT FILE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Applicant:

Shkarsky

Serial No.: 09/202,617

Filed: 18 Dec 1998

For: Adaptive Capacity and Quality
Improvements in Cellular Radio...

Examiner:

Commissioner of Patents and Trademarks
Washington, D.C. 20231



Group Art Unit:

Attorney
Docket: 26/259

DECLARATION IN SUPPORT OF PETITION

I, Anthony J. Castorina, of 2001 Jefferson Davis Highway, Suite 207, Arlington,
Virginia 22202 declare as follows:

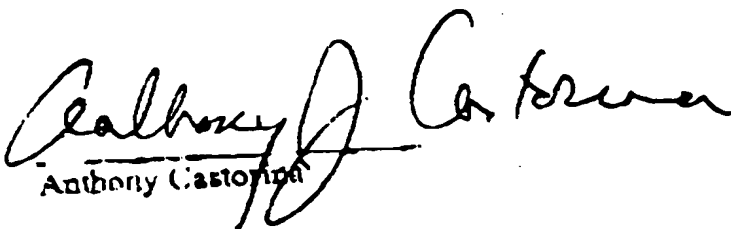
1. Since 1997 I have been the correspondence address of Mark Friedman of Tel Aviv, Israel on all U.S. Patent and trademark applications filed in the USPTO on which he is the attorney of record.
2. My duties and responsibilities as the correspondent address of Mr. Friedman is to receive, open, docket and forward all mail addressed to Mr. Friedman at the above address. I am the only one occupying the above address, and as such, personally open all the mail addressed to Mr. Friedman. I personally and routinely docket in a log all U.S. Patent & Trademark Office actions that are addressed to him that require some further action on his part. I then package all the mail received and personally deliver it to Federal Express in Arlington, Virginia for shipment to Mr. Friedman in Israel, and notify him of the Federal Express Waybill number.

3. After having been informed by Mr. Friedman that he had received a Notice of Abandonment on the above identified application for failure to respond to a Notice of Missing Requirements, he instructed me to review my records from February 23, 1999 through April 23, 1999 to determine whether I had recorded receipt of such Notice of Missing Requirements or any other USPTO action with respect to this application for this time period.

4. I thereupon reviewed my records for the time period requested by Mr. Friedman, and did not locate any notation of such Notice of Missing Requirements or any other action during the time period in question in my log book routinely kept by me. True copies of the pages from those entries are attached herewith. As such I can state that I never received such Notice of Missing Requirements or any other action with respect to this application at any time between February 23, 1999 and April 23, 1999.

I hereby further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application of any patent issuing thereon.

Signed this 16TH date of August, 2000


Anthony Castorina

Feb

99

22-26

MAIL RECEIVED DURING WEEK OF

<u>Reference No.</u>	<u>Serial No.</u>	<u>Date Received</u>	<u>Date Due</u>
1062/1	08/934219	Feb 22 99	May 18 99
995/15	09/087796	Feb 22 99	May 18 99
995/3	08/896051	Feb 22 99	May 19 99
899/8	09/148989	Feb 23 99	Aug 21 99
755/4	09/089800	Feb 25 99	May 23 99
910/6	09/260038	Feb 25 99	May 23 99
1081/1	08/982777	Feb 26 99	May 26 99
968/1	08/826786	Feb 26 99	May 25 99
887/2	08/904249	Feb 26 99	May 25 99
57/79	09/009421	Feb 26 99	May 25 99
1197/1	08/997703	Feb 26 99	May 25 99
1140/1	08/948362	Feb 26 99	May 24 99
910/5	09/071739	Feb 26 99	May 26 99
910/4	09/046475	Feb 26 99	May 26 99
1179/1	09/104889	Feb 26 99	Aug 27 99
857/21	08/124638	Feb 26 99	Aug 24 99
205/70	09/091756	Feb 26 99	Aug 26 99
100/62	09/109727	Feb 26 99	Aug 26 99

March 99

1-5

MAIL RECEIVED DURING WEEK OF

<u>Reference No.</u>	<u>Serial No.</u>	<u>Date Received</u>	<u>Date Due</u>
1349/6	60/138024	Mar 299	Aug 30 99
1144/1	08/988698	Mar 299	May 12 99
16/18	09/232675	Mar 3 99	Jun 1 99
968/4	08/901834	Mar 3 99	Jun 1 99
81/27	08/947502	Mar 4 99	Jun 2 99
567/14	08/718829	Mar 4 99	Jun 2 99
748/40	08/997398	Mar 4 99	Jun 2 99
1183/5	09/142998	Mar 5 99	Jun 3 99
1129/18	09/092270	Mar 5 99	Jun 3 99

March 8-12 99

MAIL RECEIVED DURING WEEK OF

<u>Reference No.</u>	<u>Serial No.</u>	<u>Date Received</u>	<u>Date Due</u>
1085/3	09/018964	Mar. 899	Jun 499
1257/1	09/045889	Mar. 899	Jun 499
2/1	08/004536	Mar 899	Jun 599
755/5	09/089778	Mar 899	Jun 499
1532/1	29/097158	Mar 899	Jun 499
986/2	09/049062	Mar 899	Jun 599
927/1	08/839047	Mar 1099	Jun 899
1068/2	09/005032	Mar 1199	Jun 999
1471/2	08/978005	Mar 1199	Jun 999
27/97	08/942052	Mar 1199	Jun 999
977/5	09/015276	Mar 1199	Jun 999

March 99

15 - 19

MAIL RECEIVED DURING WEEK OF

<u>Reference No.</u>	<u>Serial No.</u>	<u>Date Received</u>	<u>Date Due</u>
777/8	08/974983	Mar 15 99	Jun 12 99
906/14	08/808935	Mar 15 99	Jun 12 99
100/56	09/064741	Mar 15 99	Jun 12 99
1044/2	08/902939	Mar 15 99	Jun 12 99
1326/5	75/575017	Mar 15 99	Sept. 11 99
1473/1	75/575018	Mar 15 99	Sept. 11 99
724/2	08/873394	Mar 15 99	Jun 12 99
325/31	09/134607	Mar 15 99	Jun 11 99
620/13	09/120285	Mar 17 99	Jun 15 99
1198/13	09/043058	Mar 18 99	Jun 16 99

March 99

22-26

MAIL RECEIVED DURING WEEK OF

Reference No.

Serial No.

Date Received

Date Due

1068/1

08/982426

Mar. 22 99

Jun 18 99

899/5

08/947862

Mar 22 99

Jun 18 99

1212/1

09/021299

Mar 22 99

Jun 19 99

1194/2

09/024195

Mar 22 99

Jun 18 99

1194/3

09/130367

Mar 22 99

Jun 18 99

1041/15

75/421872

Mar 22 99

Sept. 19 99

899/5

08/947862

Mar 25 99

Jun 23 99

1117/4

75/409689

Mar 26 99

Sept. 26 99

1089/1

09/000553

Mar 26 99

Jun 24 99

March 29-31 99

+

MAIL RECEIVED DURING WEEK OF

April 1 + 2 99

<u>Reference No.</u>	<u>Serial No.</u>	<u>Date Received</u>	<u>Date Due</u>
100/13	08/276572	Mar 29 99	Jun 25 99
1008/1	08/89365	Mar 29 99	Jun 25 99
1041/23	29/093366	Mar 29 99	Jun 27 99
844/14	09/362048	Mar 29 99	Sept. 25 99
205/56	09/012412	Mar 29 99	Jun 26 99
1232/1	09/013975	Mar 29 99	Jun 26 99
26/204	08/790136	Mar 29 99	Jun 25 99
753/4	08/693657	Mar 29 99	Jun 25 99
1041/24	29/083367	Mar 30 99	Jun 28 99
1407/1	29/091865	Mar 30 99	Jun 28 99
1201/1	09/064130	Mar 31 99	Jun 29 99
1194/4	09/161659	Mar 31 99	Jun 29 99
1188/1	09/013980	Mar 31 99	Jun 29 99
703/1	08/583383	March 31 99	Jun 29 99
513/10	09/130373	Apr 1 99	Jun 30 99
643/3	08/990512	Apr 1 99	Jun 30 99
1267/1	09/034567	Apr 2 99	Jun 30 99
1054/1	08/901427	Apr 2 99	Jun 30 99
564/3	09/188520	Apr 2 99	Jun 30 99

MAIL RECEIVED DURING WEEK OF

5-9

Reference No.

Serial No.

Date Received

Date Due

844/5

08/912401

Apr 5 99

Jul 2 99

699/6

09/101984

Apr 5 99

Jul 1 99

1055/1

08/934205

Apr 5 99

Jul 1 99

55/22

09/152103

Apr 5 99

Jul 1 99

681/10

08/967023

Apr 7 99

Jul 5 99

927/1

08/839047

Apr 9 99

Jul 7 99

839/1

09/030823

Apr 9 99

Jul 5 99

MAIL RECEIVED DURING WEEK OF

Apr 12 - 16

<u>Reference No.</u>	<u>Serial No.</u>	<u>Date Received</u>	<u>Date Due</u>
1573/1	09/273464	Apr 12 99	Jun 8 99
1001/2	08/917608	Apr 12 99	Jul 10 99
797/2	08/739518	Apr 14 99	Jul 12 99
887/3	09/002925	Apr 14 99	Jul 12 99
1105/1	08/936683	Apr 15 99	Jul 13 99
1501/1	09/200715	Apr 15 99	Jul 13 99
27/86	08/906390	Apr 15 99	Jul 13 99
314/5	09/041755	Apr 15 99	Jul 13 99
205/68	09/122704	Apr 16 99	Jul 14 99
1017/5	08/866266	Apr 16 99	Jul 14 99

April 99

19-23

MAIL RECEIVED DURING WEEK OF

<u>Reference No.</u>	<u>Serial No.</u>	<u>Date Received</u>	<u>Date Due</u>
1022/1	09/030824	Apr 1999	Jul 1599
744/2	08/843367	Apr 1999	Jul 1599
1190/1	09/004518	Apr 1999	Jul 1699
1336/1	09/096475	Apr 1999	Jul 1699
910/16	09/260638	Apr 1999	Jul 1799
1117/1	08/988699	Apr 2299	Jul 2099
1198/13	09/043058	Apr 2399	Jul 2199
927/5	09/052166	Apr 2399	Jul 2199
959/13	09/229894	Apr 2399	Jul 2199
930/111	09/100108	Apr 2399	Jul 2199
1154/2	08/952473	Apr 2399	Jul 2199